

REMARKS

This Response is submitted in reply to the Office Action dated January 25, 2011. Claims 42-44, 46-56, 60-88 are pending in this Application, and Claims 42-44, 46-56, 60-63, 81 and 83-88 are rejected under 35 U.S.C. §112. In this Response, Claims 42 and 81 are amended herein. Claims 64-80 and 82 have been withdrawn without prejudice or disclaimer. The amendments do not add new matter. A Supplemental Information Disclosure Statement is also submitted herewith. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing. If such a withdrawal is made, please indicate the Attorney Docket No. 3712174-00456 on the account statement. Applicants respectfully submit that the rejections have been overcome, as set forth in detail below.

Claims 42 and 81 are objected and have been amended to recite “the fuel conduits and the oxidant gas channels” for clarification and as recommended by the Examiner. Accordingly, Applicants respectfully request that objections to Claims 42 and 81 be withdrawn.

The Office Action rejected Claims 42-44, 46-56, 60-63, 81 and 83-88 under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended Claims 42 and 81 to remove the objected to term “substantially,” and thus Applicants respectfully request that the 35 U.S.C. §112 rejection of Claims 42-44, 46-56, 60-63, 81 and 83 be withdrawn.

Claims 42-44, 47-52, 56, 60-62 and 87 are rejected under 35 U.S.C. §103(a) as being unpatentable over WO 00/14819 to Chizawa, et al. (“Chizawa”), in view of newly cited U.S. Pat. App. Pub. No. 2002/0155333 to Fitts, et al. (‘Fitts’), U.S. Pat. App. Pub. No. 2002/0028364 to Kaufmann (“Kaufmann”), U.S. Pat. App. Pub. No. 2002/0190448 to Imamura et al. (“Imamura”), U.S. Pat. App. Pub. No. 2002/0168556 to Leboe et al. (“Leboe”), and U.S. Pat. App. Pub. No. 2003/0022042 to Wells et al. (“Wells”). Of the rejected claims, Claims 42 and 81 are the sole independent claims.

Independent Claim 42 has been amended for clarification purposes to recite, at least in part, a fuel cell system comprising: a power generation unit provided with a conduit for an oxidant gas containing at least oxygen; a heat radiation unit including a plurality of radiating fins, the heat radiation unit connected to a first side of said power generation unit so as to radiate

heat from said power generation unit; a separator included in the power generating unit, the separator including an upper-side portion including fuel conduits, a lower-side portion including oxidant gas channels, and a heat transfer portion formed on the lower-side portion and formed in an area corresponding to positions of the fuel conduits and the oxidant gas channels and extending beyond an outer edge of the upper-side portion so as to be formed on surfaces of the radiating fins of said heat radiation unit. Claim 81 has been amended in a similar fashion.

Support for the clarifying amendments can be found, for example in Fig. 6A, where radiation fins 75 are included in the heat radiation unit, and where heat transfer portion 72 extends all the way out beyond the area where the conduits 79 are and covers the surface of the radiation fin 75.

The newly cited Fitts reference was cited as disclosing certain features of the separator elements recited in Claims 42 and 81. However, the heat conductive area 14 in Figs. 1-7 of Fitts does not include a heat transfer portion formed on a surface thereof (i.e. it is a single layer). Therefore, Fitts fails to cure the deficiencies of the remaining references for at least this reason. Moreover, it would not be obvious to one of skill in the art to structurally modify Fitts to include an additional layer where Fitts specifically discloses “an area 14 of the heat conducting plate 10 is left uncovered for later use as a heat transfer area.” (See, Fitts, [0022]).

Accordingly, Applicants respectfully request that the 35 U.S.C. §103(a) rejection of Claims 42-44, 47-52, 56, 60-62 and 87 be withdrawn.

Also, the Office Action rejected: Claims 46, 54, and 55 under 35 U.S.C. 103(a) as being unpatentable over Chizawa in view of Fitts, Kaufmann, Imamura, Wells, and Leboe, as applied to claims 42, 43, 47 and 48 above, and in further view of U.S. Patent No. 6,277,508 to Reiser et al. (“Reiser”); Claim 53 under 35 U.S.C. §103(a) over Chizawa in view of Fitts, Kaufmann, Imamura, Wells, and Leboe, as applied to claims 42, 43, 47 and 48 above, in view of U.S. App. Pub. No. 2001/0019793 to Tsuyoshi (“Tsuyoshi”); Claims 63, 81, and 88 under 35 U.S.C. §103(a) as being unpatentable over Chizawa in view of Fitts, Kaufmann, Imamura, Wells, and Leboe, as applied to claim 42 above, in further view of Moulthrop, Jr. et al. (“Moulthrop”) US 2002/00518989; Claims 83-84 are rejected under 35 U.S.C. §103(a) as being unpatentable over Chizawa in view of Fitts, Kaufmann, Imamura, Wells, and Leboe, as applied to claim 42, either as evidenced by or in further view of Koschany (“Koschany”) WO 01/54218; Claims 85-86 are

rejected under 35 U.S.C. §103(a) as being unpatentable over Chizawa in view of Fitts, Kaufmann, Imamura, Wells, and Leboe, as applied to Claim 81, either as evidenced by or in further view of Koschany ("Koschany") WO 01/54218. The remaining Reiser, Tsuyoshi, Moulthrop and Koschany references fail to cure the deficiencies of Chizawa in view of Fitts, Kaufmann, Imamura, Wells, and Leboe, as discussed above, even assuming that the references are properly combinable.

For at least the foregoing reasons, Applicants respectfully submit the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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